

Readopt with amendment Pos 1100, effective 12-16-04 (Document #8221) as amended in Pos 1103.06 and Pos 1112.01 effective 12-20-05 (Document #8525), renumber as Hedc 300 to read as follows:

CHAPTER Hedc 300 OFFICE OF CAREER SCHOOL LICENSING

PART Hedc 301 APPLICABILITY

Hedc 301.01 Career Schools under Commission Jurisdiction.

- (a) These rules shall apply to career schools under the higher education commission jurisdiction, including entities that act as a school, except for those career schools identified in RSA 188-G:1 II.
- (b) These rules shall apply to any career school undergoing an acquisition, merger, transfer or sale of assets.

PART Hedc 302 DEFINITIONS

Hedc 302.01 Definitions.

- (a) "Ability to benefit" means that, in the absence of a high school diploma or certificate of high school equivalency, the student has the capability to complete, with or without remediation, the program and/or course offered at the school.
- (b) "Accrediting agency" means an accrediting agency that is recognized by the United States Secretary of Education.
- (c) "Advertising" means any statement in writing, or otherwise, through any media which is intended to induce persons to seek admission for instruction.
- (d) "Alternative delivery" means "alternative delivery" as defined in RSA 188-G:1(a), a mode of instruction which does not involve face-to-face instruction between instructor and student in the same geographic location. This mode of instruction shall include internet, televised, video, telephonic, and correspondence media.
- (e) "Applicant" means a person, board, association, partnership, corporation or other entity seeking authorization to operate a school or provide occupational instruction qualifying an individual for employment. In the case of an application by a subsidiary of a corporation, the applicant includes the parent corporation.
- (f) "Branch" means a separate organizational subdivision of a school located at a different facility and geographical site than the main campus, but offers substantially the same programs, courses or both and services of the main campus, including management staff and operational functions.
- (g) "Career school" means any private postsecondary career school, as defined in RSA 188-G:1(j).
- (h) "Classroom clock hour" means a period of 60 minutes with a minimum of 50 minutes of classroom instruction.

- (i) "Commission" means the higher education commission defined in RSA 188-G:1 (b).
- (j) "Course" means a sequence of units of instruction in a given subject area which may be a component of a program.
- (k) "Director" means "director" as defined in RSA 188-G:1(e) charged with administering the statutory responsibilities contained in RSA 21-N:8-a,I.
- (l) "Entity" means "entity" as defined in RSA 188-G:1(g), any individual, firm, partnership, association, corporation, organization, trust, schools, or other legal entity or combination of these entities.
- (m) "Gross tuition" means the total amount collected for tuition by the school during its most recently completed fiscal year.
- (n) "Indemnity tuition" means the gross tuition collected for open enrollment programs, courses or both offered during the school's most recently completed fiscal year.
- (o) "Internship" means a structured, learning experience, which takes place outside of the school and involves practical application of competencies acquired during the school-based instruction.
- (p) "Laboratory clock hour" means a period of 120 minutes with a minimum of 100 minutes of laboratory instruction.
- (q) "Physical presence" means "physical presence" as defined in RSA 188-G:1(i).
- (r) "Program" means a sequence of courses, over a period of time, which leads to a certificate or diploma.
- (s) "Satellite" means an additional location away from the main licensed campus.
- (t) "Shop, practicum, externship and internship clock hour" means a period of 180 minutes with a minimum of 150 minutes of practice, instruction or both.
- (u) "Teachout" means the continuation of instruction to complete the program or course whenever the school's license has been suspended or revoked or a school has advised the director that it intends to discontinue operations.

PART Hedc 303 LICENSURE PROCEDURES

Hedc 303.01 Initial Application.

- (a) Any career school maintaining a physical presence pursuant to RSA 188-G:1(i), prior to soliciting students for enrollment, shall be registered, reviewed and have an on-site visit conducted by the office of career school licensing to determine if all standards are met.
- (b) Initial applicants seeking to operate a career school in the state of New Hampshire shall file an application which addresses Hedc 304 at least 120 days prior to advertising, beginning instruction or both.

- (c) Each school or school branch shall be issued a separate license, which is not transferable.
- (d) Schools may offer programs, courses, or both at more than one satellite location under the same license as long as each location is approved for such offerings.
- (e) Each school or school branch shall prominently display its license.
- (f) Applicable fees shall be submitted with the application and paid by check or money order made payable to “Treasurer, State of New Hampshire.”
- (g) The licensing approval letter shall include the following:
 - (1) The school’s license;
 - (2) The programs, courses, or both the school is authorized to offer; and
 - (3) The sites at which the programs, courses, or both are being offered.

Hedc 303.02 Renewal Application. A renewing applicant shall submit a completed application for licensure at least 90 days before their current license expires that includes:

- (a) A hard copy, CD ROM, or USB flash drive list of student’s names, addresses and programs or courses enrolled the previous year;
- (b) The most recent financial statements regarding:
 - (1) The school's revenue and expenditures;
 - (2) Current indemnity coverage;
 - (3) Current liability insurance coverage; and
- (c) A report of any changes related to Hedc 304 to the school's initial application.

Hedc 303.03 Acquisition, Merger, Transfer, Sale of Assets. Any career school undergoing an acquisition, transfer, sale of assets, if more than 25%, or merger, shall inform the office of career school licensing by submitting the following:

- (a) A letter explaining the reason for the change; and
- (b) A transition plan and timetable that includes:
 - (1) Public disclosure and notification statements;
 - (2) Evidence of the fiscal resources to support the transition;
 - (3) Correspondence to and from institutional accrediting agencies, if any;

- (4) Legal documents related to the transition;
- (5) Most recent financial statements, or audited financials;
- (6) Any changes in:
 - a. Mission;
 - b. Board appointments;
 - c. Enrollment;
 - d. Program, course offerings, or both; and
 - e. Facilities; and
- (7) Any other substantive changes altering the current activity in Hedc 303.

Hedc. 303.04 Additional Programs, Courses, or Both . The school shall submit to the office of career school licensing an application for additional programs, courses, or both at least 60 days prior to the date upon which the program, course, or both is to be offered.

PART Hedc 304 STANDARDS FOR CAREER SCHOOL LICENSURE

Hedc 304.01 Organizational Purpose and Mission. The applicant shall submit the following:

- (a) A statement of the institution's purpose and mission;
- (b) If applicable, a copy of the bylaws or other governing instrument; and
- (c) A certificate of registration filed with the New Hampshire secretary of state.

Hedc 304.02 Control and Administration.

- (a) Administrative responsibilities and authority shall be specified, together with an organizational chart.
- (b) One person shall be designated as the administrator of the school or school branch.
- (c) The administrator shall be of good reputation defined as follows:
 - (1) Have no felony convictions;
 - (2) Within the last 10 years, have not been successfully sued for fraud or a deceptive trade practice;
 - (3) Not be a plaintiff or defendant in litigation that carries risk to the school to be able to continue operation;

- (4) Have never owned or operated, currently or in the past, a school with legal or administrative habitual violations, including, but not limited to, unpaid refunds;
 - (5) Have never knowingly falsified or withheld information from the office of career school licensing; and
 - (6) Have not been disciplined, in writing, by any state licensing board that regulates his or her profession.
- (d) The administrator shall have the following qualifications:
- (1) For credit-bearing programs, courses, or both, have received baccalaureate or higher degree upon completion of an approved college program and have gained experience as follows:
 - a. At least 2 years of teaching, practical or business management experience, in one or more of the programs, courses, or both taught in the school;
 - b. Two years of postsecondary school administrative or supervisory experience; or
 - c. A combination of related experience amounting to at least 2 years; and
 - (2) For non-credit programs, courses, or both, have completed an approved high school program or hold a high school equivalency diploma and have:
 - a. At least 3 years of teaching, practical or business management experience in one or more of the courses taught in the school;
 - b. Three years of postsecondary administrative or supervisory experience; or
 - c. A combination of related experiences which amounts to at least 3 years.
- (e) The school shall inform the office of career school licensing of a change of administrator, along with a resume of qualifications and experience.

Hedc 304.03 Educational Program.

- (a) The educational program and curriculum shall reflect and support the purpose and mission of the school.
- (b) Each curriculum shall provide a sequence of subjects or courses leading to competency in the respective area or field of study.
- (c) The school shall schedule classes to allow students to receive instruction in all subjects for the number of instructional hours as advertised in the school's catalog. When a school, previously licensed to offer a program, course of study, or both, fails to maintain the qualifications for continuing the program, course, or both, it shall be removed from the catalog or stamped "not offered."

(d) Faculty and instructional resources shall be sufficient for the student enrollment and programs, courses, or both offered.

(e) Schools shall measure instructional activity per Hedc 302.01 (h), (j), (o), (r), (s) unless otherwise required by an accrediting agency accreditation or federal regulations.

(f) Diplomas or certificates shall not be issued prior to completion of the applicable course of study.

(g) Alternative delivery instruction or hybrid formats must comply with all program and course standards for faculty and educational program and course characteristics.

(h) The school shall inform the office of career school licensing of curricular changes to courses or programs.

Hedc 304.04 Admission Requirements. The requirements for admission shall be as follows:

(a) A school shall admit only those students whose educational background, abilities, or both qualify them to pursue and benefit from the particular program or course for which enrollment is sought;

(b) The school shall require a student to possess a high school diploma or certificate of high school equivalency as a prerequisite for enrollment in a diploma or certificate offered by the school if required by the appropriate state agency that regulates the career field;

(c) The school may substitute an ability to benefit test or certificate of high school equivalency to demonstrate ability to benefit;

(d) The school shall maintain records in each student's file to show compliance with admission requirements;

(e) A copy of the school's enrollment agreement shall be filed with the application for licensure and shall conform to all requirements of state and federal law; and

(f) Students shall only be enrolled at the beginning of each program or course.

Hedc 304.05 Faculty.

(a) Instructors shall have, at a minimum, the following qualifications:

(1) Be at least 18 years of age;

(2) Hold a high school diploma, or other equivalency recognized by the U.S. Department of Education;

(3) Have a minimum of 3 years of work experience, teaching experience or demonstrated competence in the field in which he or she is to teach within 6 years immediately preceding the period of employment by the school; and

- (4) Hold and maintain current valid state permits or licenses if such permits or licenses are required to practice their trades, and provide evidence thereof to the school.
- (b) The following shall disqualify an individual from serving as an instructor at a school:
 - (1) Conviction of a felony; or
 - (2) Having been disciplined in writing by any state licensing board that regulates his or her profession.
- (c) The school shall inform the office of career school licensing of a change of faculty along with a resume of qualifications and experience for each instructor.

Hedc 304.06 Program or Course Outcomes. Each program or course shall be measured through one or more student outcomes as follows:

- (a) A system which defines and measures the knowledge, skills and competencies students have acquired;
- (b) In occupations requiring licensure, the number and percentage of graduates who successfully obtained such licensure;
- (c) The number and percentage of students who complete or graduate from each program or course, or both; and
- (d) The number and percentage of students who are working in jobs related to their training 60-90 days following completion or graduation.

Hedc 304.07 Student Records.

- (a) The school shall maintain current, complete, and accurate student records as follows:
 - (1) A copy of the student's signed enrollment agreement;
 - (2) Records of student progress reports that include information on classroom attendance and performance;
 - (3) A copy of the results of any enrollment evaluation or examination;
 - (4) Student records shall include:
 - a. Student's legal name;
 - b. Address;
 - c. Telephone number;
 - d. Student identification number assigned, if any;

- e. Last 4 digits of social security number;
- f. Date of birth;
- g. Dates of attendance, including beginning and ending dates;
- h. Program, course of instruction, or both and completion; and
- i. Date of transfer, if applicable; and

(5) All monies owed and paid by each student.

(b) A school shall maintain clear and accurate records for preparation of transcripts or certificates.

(c) Records of students shall be open for inspection to the office of career school licensing during site visits to the school.

(d) Student records shall be maintained in a safe and secure environment as approved by the office of career school licensing pursuant to RSA 189:29-a.

(e) A school shall permanently maintain student transcripts of academic records.

(f) A school shall permanently maintain a master student registration list.

Hedc 304.08 Learning Resources.

(a) The school shall have available learning resources to support its educational programs, courses, or both.

(b) Learning resources shall meet the requirements of the school's accreditation association, if applicable.

(c) If outside libraries or other facilities are necessary to meet learning resource needs, written agreements for such arrangements shall be on file.

Hedc 304.09 Facilities and Equipment. The applicant shall submit the following:

(a) A description of the facilities floor plan and equipment, which shall support each program, course, or both for which licensure is sought;

(b) Photocopies of inspection reports, certificates, or both, which show that the building is safe and sanitary, and meets all local city, county, municipal, state, and federal regulations, such as fire codes, building, hazardous materials and sanitation codes. If inspection reports, certificates, or both are not available, then a signed statement from the appropriate inspection agency shall be used in lieu of the report; and

(c) A photocopy of the lease for the space occupied, if not owned by the school.

Hedc 304.10 Financial Resources.

(a) The school shall have financial resources sufficient to operate the school during the period of licensure as evidenced by annual financial statements, including operating statement and balance sheet, which details the financial condition of the school.

(b) Annual financial statements shall be prepared by school management and verified by a licensed accountant.

(c) A copy of the school's most recent annual financial statement or owner's federal income tax statement with all attachments shall be filed each year with the school's licensure application.

(d) Financial records shall be kept by the school in conformity with generally accepted accounting principles.

(e) A school shall retain financial records in accordance with federal retention requirements.

(f) All such records shall be open to inspection and audit by the office of career school licensing.

(g) Upon a school administrator's written request, the director shall authorize a filing extension in order for the school to provide the most current financial statements.

(h) Insurance shall be carried to protect the school's financial interest. The amount of insurance shall be adequate to maintain the solvency of the school in case of loss by fire or other causes, and to protect it from instances of personal and public liability.

Hedc 304.11 Surety Indemnification. Pursuant to RSA 188-G:3, before a license is issued or renewed, a school shall submit a surety bond, an irrevocable letter of credit, or a term deposit of at least \$10,000 which shall be signed, dated, and notarized by a surety bond agent and a school official. If applicable, evidence that the surety bond is of equal value to the previous school's bond. The amount of the surety bond indemnification shall be determined by the documented indemnity tuition of the institution.

Hedc 304.12 Public Disclosure. Information shall be available in hard copy and electronically and shall include the following, as applicable:

(a) Statement of mission, ownership and control of the institution;

(b) List of officers, board, faculty, indicating program affiliation, and staff;

(c) Admission requirements, including any prerequisite training required for admission;

(d) Beginning and ending dates of each quarter, term, or semester, that includes add or drop dates, if applicable, and examination periods;

(e) Calendar of holidays and other important dates;

(f) Posting of instructor, location, and schedule of subjects being offered at the beginning of each quarter, semester or term;

- (g) List and description of program, course, or both objectives, length, and curriculum offerings at each school location;
- (h) Description of school’s grading system for necessary student outcomes;
- (i) Withdrawal policy;
- (j) Requirements for program, course, or both completion and graduation;
- (k) Rates of student success, including rates of retention, graduation and other measures of success applicable to its institutional mission;
- (l) Schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;
- (m) Cancellation and refund policies as defined by Hedc 307;
- (n) Procedures and policies related to transfer of credit, including the statement, “limited transferability”;
- (o) Where to file student complaints and where to seek redress; and
- (p) Other material facts concerning the institution that are likely to affect the decision of the student to enroll therein.

Hedc 304.13 Ethics.

- (a) Schools shall not falsely mislead the public as to its name, nature of business, facilities and equipment and shall not engage in fraudulent or deceitful marketing practices.
- (b) A school or its representative shall not make unsubstantiated claims or guarantees regarding employment to prospective students.

PART Hedc 305 TUITION POLICY

Hedc 305.01 Tuition Policy.

- (a) A school and its approved branch, satellite, or both shall charge students enrolled in the same program, course, or both a uniform rate of tuition and other fees, provided nothing herein shall prevent a school from making a uniform change in tuition or other fees in new enrollment agreements or shall prevent a school from negotiating with businesses, or state or federal governmental agencies for different rates of tuition and fees.
- (b) The tuition charged per unit shall not be increased for the term of the contract or enrollment agreement.

PART Hedc 306 CONTRACT CANCELLATION

Hedc 306.01 Cancellation of Enrollment Agreement. A student may cancel the enrollment agreement within 3 business days pursuant to RSA 361-B.

PART Hedc 307 REFUNDS

Hedc 307.01 Federal Program Refund. The refund policy for students receiving benefits from federal programs shall be in accordance with federal policy, rules and regulations.

Hedc 307.02 Full Refund. A school shall provide a student with a full refund, of all monies paid within 30 days if:

- (a) The school procured the student's enrollment as the result of any false representations in the written materials used by the school or in oral representations made by or on behalf of the school; or
- (b) The student withdraws from the program or course on or before the first day of instruction, a full refund, less an administrative fee, not to exceed \$150.

Hedc 307.03 Other Refunds.

(a) A school shall provide a student with a partial refund of monies paid within 30 days if:

(1) A student who withdraws or is dismissed before 50% of the instruction period shall receive a pro-rata refund, less an administrative fee, not to exceed \$350;

(2) A student who withdraws or is dismissed after more than 50% of the instruction period shall receive no refund.

(b) All efforts shall be made to refund prepaid amounts for books, supplies and other charges unless the student has consumed or used those items and they can no longer be used or sold to new students, or returned by the school to the supplier.

Hedc 307.04 Notice of Withdrawal. A school shall require that notice of withdrawal be in writing, but shall not require a specific manner of delivery.

PART Hedc 308 STUDENT GRIEVANCES

Hedc 308.01 Procedure for Student Grievances.

(a) Any person having a complaint or grievance against a school that is licensed by the commission shall make a reasonable effort to obtain satisfaction from the school directly through its established procedures.

(b) In the event that a solution cannot be reached, the person may file a written complaint with the office of career school licensing. The complaint shall include any evidence on the issues, and documentation that a reasonable effort was made to resolve the complaint directly with the school.

(c) The office of career school licensing shall investigate each written complaint involving potential violations of these rules with both students and officials of the school and shall attempt to resolve the matter.

(d) The office of career school licensing shall determine if the complaint is of such a serious nature as to warrant a fine, suspension, or revocation of a school's license. The director shall make the decision in such matters.

(e) The director shall report the findings of the investigation and outcomes to the student, the school, and the commission.

(f) A party may request a due process hearing as provided in Jus 800.

PART Hedc 309 INSPECTIONS

Hedc 309.01 Inspections. Pursuant to RSA 188-G:5, the director may, at any time, inspect the premises, curriculum, teaching materials, faculty performance, sales literature, financial data, or other matters which are relevant to the educational and business activities of a licensed school in order to determine compliance with applicable laws and rules.

PART Hedc 310 PENALTY

Hedc 310.01. Penalty.

(a) Whenever the commission determines that an entity is violating any provision of Chapter 188-G, the commission shall request the attorney general, or other appropriate official having jurisdiction, to provide relief.

(b) The commission, upon verifying that a school is operating without a license, shall issue a cease and desist order to such school.

PART Hedc 311 REVOCATION OF LICENSE

Hedc 311.01 Revoking a License.

(a) A school shall be notified by registered mail within 10 days of the commission's intent to revoke its license when it is believed to be in violation of RSA 188-G.

(b) A school so notified may request, within 20 days, a hearing before the commission after receipt of registered mail notification.

(c) A school may appeal the commission's decision pursuant to RSA 188-G:6.

PART Hedc 312 FEES, FINES, OR BOTH

Hedc 312.01 Licensure Fees, Other Fees, and Fines.

(a) Pursuant to RSA 188-G:2 IV, fees and fines for the office of career school licensing shall be as specified in Table 300-1 below.

Table Hedc 300-1, Schedule Of Required Institutional Fees & Fines

Action	Fee/Fines
Initial Licensing , Inclusive of all courses/programs	\$3,000
Annual Licensure Fee, based on annual gross tuition – (AGT)	
\$100,000 or less through June 30, 2015	\$500
\$100,001 or more, through June 30, 2015	.0050% of AGT
Thereafter - \$100,000 or less	\$650
Thereafter - \$100,001 or more	.0065% of AGT
New Course(s) individually or as part of a program – fee not to exceed \$750.00 per program	\$75 each course
Governance - Acquisition, Merger, Transfer, Or Sale Of Assets	\$650
Reinstatement For Suspended Or Lapsed License	\$650
Institutional Closure	\$1,000
Closed School Transcripts	
Transcript request fee per transcript	\$20
Fines	
Administrative violation of rules and statutes	\$200
Criminal violation of rules and statutes	\$1,000
Operation of a school without a license	\$2,000/month
Stipends	
External consultant review	\$500 per day plus expenses

(b) Each school applying or renewing their license shall pay the licensing fee required with their application submittal.

(c) Fines shall be due within 15 days of receipt of registered mail notification or within 15 days of final decision after opportunity for a hearing.

(d) All fees and fines shall be nonrefundable.

(e) Repeat administrative violations of fines shall be grounds for suspension of license.

(f) Criminal violations shall be referred to the NH department of justice and shall be grounds for termination of license.

PART Hedc 313 SCHOOL CLOSURE

Hedc 313.01 Schools Undergoing Closure.

(a) Any institution that plans to close shall inform the commission by forwarding the following:

(1) A transition plan and timetable that addresses and includes, but is not limited to:

a. Public disclosure and student and donor notification;

- b. Changes in internal governance and leadership structure; and
 - c. Changes in faculty and staff appointments;
- (2) A plan for discontinuation of programs, courses, or both that includes:
- a. Number of students impacted; and
 - b. Teach-out schedule detailing program, course completion, or both at current institution;
- (3) Evidence of fiscal resources necessary to support the transition;
- (4) Accreditor(s) expectations, if applicable; and
- (5) Any correspondence to and from accrediting agencies.
- (b) Pursuant to RSA 292:8-kk, any institution that closes shall also submit the following:
- (1) One original transcript or other official academic record and an electronic copy of each for all current and former students who were enrolled for instruction at the institution;
 - (2) Two original copies of catalogs for each year in existence;
 - (3) An explanation of the institution's credit and grading system; and
 - (4) A list of students per Hede 303.02 (a).

APPENDIX

RULE	STATUTE
Hedc 301	RSA 188-G:1,II
Hedc 302	RSA 188-G:1
Hedc 303	RSA 188-G:2,II
Hedc 304	RSA 188-G:2,II
Hedc 305	RSA 188-G:2, IV
Hedc 306	RSA 188-G:2,II
Hedc 307	RSA 188-G:2, IV
Hedc 308	RSA 188-G:2, IV
Hedc 309	RSA 188-G:5
Hedc 310	RSA 188-G:10
Hedc 311	RSA 188-G:6
Hedc 312	RSA 188-G:2, IV; RSA 21-N:8-a,II(e)(5)
Hedc 313	RSA 292:8-kk